IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

WP(C).No. 34889 of 2007(C)

AGAINST THE ORDER IN IA.1870/2007 IN
OS.38/2004 of MUNSIFF COURT, PERUMBAVOOR

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PETITIONERS:

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1. P.R.KRISHNAN, AGED 59 YEARS,
   S/O.LATE P.M.RAMAKRISHNAN, PALATHADATHIL HOUSE,
   KANINAD P.O, VADUVUKODE, PUTHENCRUZ, KANINADU
   KARA, ERNAKULAM DISTRICT.

2. A.R.SARAYU DEVI, AGED 55 YEARS,
   W/O.P.R.KRISHNAN, PALATHADATHIL HOUSE,
   KANINAD P.O., VADAVUKODE, PUTHENCRUZ,
   KANINADU KARA, ERNAKULAM DISTRICT.

BY ADV. SRI.G.RAJAGOPAL
SRI.THOMAS M.JACOB

RESPONDENT:

P.R.PONAPPAN, AGED 51 YEARS,
S/O.LATE P.M.RAMAKRISHNAN, PALATHADATHIL HOUSE,
KUTTA KARA, PUTHENCRUZ VILLAGE, ERNAKULAM DISTRICT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.34889 of 2007

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Dated this the 27th day of November, 2007.

JUDGMENT

This Writ Petition is filed seeking to set aside the order in I.A.No.1870 of 2007 in O.S.No.38 of 2004 of the Munsiff, Perumbavoor. Plaintiffs filed an application for remitting the Commissioner's plan and report and it was objected to by the respondent herein. The court was of the view that by remitting the matter no purpose will be served and it is a matter of evidence. The court also stated that the plaintiffs can seek clarification of the mistake by examining the Surveyor and the Commissioner. Therefore, I feel that if evidence is permitted to be adduced in that regard and when the court is convinced that there is mistake, then naturally in order to have a proper disposal of the case a remission may be necessary.

2. Therefore, I direct the court below to permit the present writ petitioners to adduce evidence in support of their objections raised by them regarding the Commissioner's plan and report in

the suit and when they are able to prima facie satisfy about the mistake, the court shall direct the Commissioner to submit a fresh plan and report, if it is needed.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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